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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/775,130 | 02/11/2004 | Haruhiko Kondo | 2018-844 | 2459 |
| 23117 | 7590 | 08/14/2006 | EXAMINER | |
| NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203 | | | YANCHUS III, PAUL B | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2116 | |

DATE MAILED: 08/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/775,130 | Applicant(s) KONDO, HARUHIKO | |
| | Examiner Paul B. Yanchus | Art Unit 2116 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2/11/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art [AAPA], in view of Okanou, US Patent no. 5,689,640.

Regarding claim 1, AAPA discloses a processing system including at least two electronic units of a first electronic unit and a second electronic unit, the first electronic unit operating according to a first operation program, comprising:

first storing means for storing the first operating program [non-volatile memory, page 1, lines 15-20]; and

first retrieving means for retrieving, from an external unit, a first rewrite program for rewriting the first operation program stored in the first storing means [page 1, lines 21-27],

wherein the first electronic unit newly retrieves, from the external unit, a first operation program by executing the first rewrite program retrieved by the first retrieving means to rewrite the first operation program stored in the first storing means using the newly retrieved first operation program [page 1, lines 21-27],

the second electronic unit operating according to a second operation program, comprising:

second storing means for storing the second operating program [non-volatile memory, page 1, lines 15-20 and page 2, lines 1-2]; and

second retrieving means for retrieving a second rewrite program for rewriting the second operation program stored in the second storing means [page 1, lines 21-27 and page 2, lines 1-2],

wherein the second electronic unit newly retrieves a second operation program by executing the second rewrite program retrieved by the second retrieving means to rewrite the second operation program stored in the second storing means using the newly retrieved second operation program [page 1, lines 21-27 and page 2, lines 1-2],

AAPA discloses a system comprising first and second electronic units, which retrieve and execute first and second rewrite programs from an external unit to rewrite operating programs of the first and second electronic units. AAPA does not disclose that the second electronic unit retrieves the second rewrite program and second operating program from the first electronic unit. Okanoue discloses a system for updating operating programs in a plurality of networked electronic units. Specifically, Okanoue discloses updating operating programs [firmware] in a plurality of networked electronic units [CPU units] by initially transferring first rewrite and operating programs [control message and download file (firmware)] from an external unit [gateway device] to a first electronic unit [CPU unit 1] and then transferring second rewrite and operating programs [control message and download file (firmware)] from the first electronic unit to the second electronic unit [column 3, lines 26-59]. It would have been obvious to one of ordinary skill in the art to modify the AAPA system to distribute firmware rewrite programs and new firmware serially to a plurality of networked electronics units. One would be motivated to serially distribute firmware rewrite programs and new firmware to electronic units in a network

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in order to reduce the processing burden on the external unit by only requiring the external unit to transfer firmware rewrite programs and new firmware to one electronic unit instead of all electronic units.

Regarding claim 2, AAPA and Okanou do not disclose rewriting the first operating program in the first electronic unit before transferring the second rewrite and operating programs to the second electronic unit. However, it would have been obvious to one of ordinary skill in the art to modify the AAPA and Okanou system to rewrite the first operating program in the first electronic unit before transferring the second rewrite and operating programs to the second electronic unit. One would be motivated to rewrite the first operating program in the first electronic unit before transferring the second rewrite and operating programs to the second electronic unit in order to ensure that the first electronic unit is operating properly so that the correct data is transferred from the first electronic unit to the second electronic unit.

Regarding claim 3, AAPA further discloses that the first and second storage means comprise first and second nonvolatile memories for storing the first and second operating programs and first and second memories for storing the first and second rewrite programs [page 1, lines 15-27].

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

O'Neill et al., US Patent Application Publication no. 2004/0068721, discloses a network for updating software in wireless communication devices.

Webster et al., US Patent Application Publication no. 2002/0188937, discloses a system for updating software in a network apparatus.

Wang et al., US Patent no. 6,954,853, discloses a method of transferring an operating system from a server to a plurality of clients.

Goodman, US Patent no. 6,904,457 discloses a method of updating in firmware in a plurality of processor nodes.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul B. Yanchus whose telephone number is (571) 272-3678. The examiner can normally be reached on Mon-Thurs 8:00-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H. Browne can be reached on (571) 272-3670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paul Yanchus
August 5, 2006


LYNNE H. BROWNE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100